

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

TAMI E. HENRY, *et al.*, §
§
Plaintiff, §
§
VS. § CIVIL ACTION NO. H-13-3042
§
PEP BOYS, *et al.*, §
§
Defendants. §

ORDER

Tami E. Henry, representing himself, sued his former employer, Pep Boys, and Pep Boys human-resources managers, Chuck Elsworth, Bradley Toby Schafer, Judy Foster, Jackie Dyan Watson, and Patricia O'Connor. Henry also moved for appointment of counsel, to extend the time for service, and for service by a United States Marshal. At the initial conference on January 31, 2014, the court denied the motion to appoint counsel. The court granted the motion for service by a United States Marshal in part and ordered that a Deputy Marshal serve the Texas-based defendants. Pep Boys and Jackie Dyan Watson were served and have answered. Other individual defendants have moved to dismiss under Federal Rule of Civil Procedure 12(b)(5), asserting improper service. (Docket Entry No. 20). Two defendants, Bradley Schafer and Judy Foster, have not been served.

Henry did not respond to the motion to dismiss. Instead, he moved to compel Pep Boys to disclose the home addresses of Shafer and Foster, the remaining unserved Texas defendants, and for an extension of time to serve them. (Docket Entry No. 21). Based on the motion to dismiss and Henry's motion to compel and for an extension of time, the court grants in part and denies in part

the motion to dismiss (Docket Entry No. 20) and grants in part and denies in part Henry's motion to compel and for an extension of time (Docket Entry No. 21). The court enters the following orders:

1. The court grants the motion to dismiss under Rule 12(b)(5) as to defendants Chuck Elsworth and Patricia O'Connor. (Docket Entry No. 20).
2. The court denies without prejudice the motion to dismiss the unserved Texas defendants, Shafer and Foster; and
3. The court orders counsel for Shafer and Foster to file, under seal, the Texas addresses where a United States Marshal can serve Shafer and Foster. The disclosure is to be made by **August 22, 2014**. The court will order a United States Marshal to serve Safer and Foster at the address provided.

SIGNED on August 6, 2014, at Houston, Texas.



Lee H. Rosenthal
United States District Judge